

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-18532-1996 (O&M)
Date of Decision: 01.09.2023**

Jugraj Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: None for the petitioner.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The petitioner by way of this petition has prayed to direct the respondents to decide the case of promotion of the petitioner for the post of Sub Divisional Officer (SDO) from the post of Junior Engineer w.e.f. February 1975 against the reserved roster point No.26 lying vacant meant for backward class candidate. Alternatively, he has prayed that he should be promoted w.e.f. 11.01.1983, the day Bachittar Singh was promoted w.e.f. 1976 on the basis of the recommendations made in his favour.

2. No one is present on behalf of the petitioner.

3. The reply has been filed by the respondents and it is stated that the petitioner belongs to Lohar community. He was initially not appointed against the post reserved for Backward Class as he did not submit the caste certificate at the time of initial selection and was appointed against the general category. The petitioner passed DPE and DRE examination and became eligible for promotion as SDO under the P.S.E. Class II Rules, 1941

which provides for promotion on seniority-cum-merit basis. He was promoted as SDO w.e.f. 15.03.1996 from general category but he was never appointed against the reserved post for Backward Class and not even recruited in service as Backward Class. He could not claim his promotion on the basis of his BC certificate.

4. I have considered the submissions.

5. The status of a reserved category person does not get extinguished merely because he has been selected on his own merit and not against the reserved quota seat. The petitioner admittedly was selected as a Junior Engineer on the basis of his own merit under the General quota although he belonged to BC community. The contention of the respondents is wholly misconceived. A reserved category candidate can always claim promotion against the reserved quota even though he was initially selected in open quota on the basis of his own merit and at the time of promotion against the reserved category promotion, his candidature is required to be considered.

6. Admittedly, the petitioner's candidature was ignored while making promotions against the reserved quota vacancy. The petitioner has thus been able to make out the case in his favour for directing the respondents to consider his case for promotion against the reserved quota vacancy from the date the similar placed Bachittar Singh was promoted.

7. The argument has also been raised of not impleading Bachittar Singh as a party. However, this Court finds that the petitioner has raised the plea that he was never considered for promotion against the reserved quota seat and that is the stand of the respondents also. In view thereof, non-impleadment of Bachittar Singh would not defeat the right of the petitioner and his right is totally independent of the consideration of Bachittar Singh.

The petition deserves to be allowed.

8. Accordingly, the present petition is allowed. The respondents are directed to consider the case of the petitioner for promotion on the post of SDO from the date Bachittar Singh was promoted against the reserved quota and grant him all consequential benefits. The compliance shall be made within a period of four months from today.
9. Pending application, if any, shall stand disposed of.

01.09.2023

D.Bansal

(SANJEEV PRAKASH SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No